

EXPRESS MAIL

CHARGE

INVESTIGATIONS OFFICER,

Claimant,

-v-

JOSEPH M. ROBERTO,

Respondent.

You are hereby advised that the Investigations Officer has charged you with the violations listed below in accordance with the powers granted to him pursuant to Section F. (COURT APPOINTED OFFICERS), Paragraph 12(A) of the order entered in United States v. International Brotherhood of Teamsters, et al., 88 CIV. 4486 (DNE) (SDNY) on March 14, 1989. A copy of that order is enclosed.

The time and place for the hearing of this matter will be determined by the Independent Administrator, Frederick B. Lacey, and he will notify you accordingly.

You are charged as follows:

Charge 1

1. Violating Article II, § 2(a) of the International Brotherhood of Teamsters ("IBT") Constitution, by conducting yourself in a manner to bring reproach upon the IBT:

TO WIT, you embezzled monies from the Teamsters Local 191 Health Services and Insurance Plan (the "Plan") and aided and abetted the willful failure to keep and maintain accurate

Plan records in violation of law. On or about June 27, 1986, you and others were indicted in the United States District Court for the District of Connecticut, in a criminal action entitled United States of America v. Anthony G. Rosetti, et al., Cr. No. N-86-30 (D. Conn.) (the "Indictment"). In the Indictment, you were charged with embezzling monies of the Plan, that is the sum of \$1500 as payment for dental treatments. On or about May 21, 1987, pursuant to a plea agreement with the government, you agreed to, and subsequently did, plead guilty, to a violation of 29 U.S.C. § 1311 for aiding and abetting the willful failure to keep and maintain accurate and complete Plan records. As part of your plea agreement, you agreed to make restitution of the \$1500 you had embezzled. On or about July 6, 1987, a judgment of conviction was filed pursuant to your plea of guilty and your agreement with the government.

Charge 2

Violating Article II, § 2(a) of the IBT Constitution, by conducting yourself in a manner to bring reproach upon the IBT; and

Violating Article XIX, § 6(b) of the IBT Constitution, by failing to perform your duties as a union officer and embezzling and converting to your own use and the use of others union funds;

TO WIT, after your indictment on June 27, 1986 in United States v. Rosetti, et al., you conspired to and participated in efforts with other officials of Local 191 to conduct a scheme to improperly funnel union monies under the guise of severance and other improper benefits for the officials who embezzled monies from the Plan. These payments were not for the benefit of the members of Local 191 and furthered no legitimate interests of the Local. As part of this scheme, on or about August 9, 1986, six weeks after the Indictment, you and other members of the executive board improperly caused and approved a pay raise for \$5200 per year, for Anthony Rosetti, who was then Secretary-Treasurer of Local 191 and one of your co-defendants charged in the Indictment with looting the Plan. On or about December 20, 1986, you and other members of the executive board improperly caused and approved a second pay raise to your co-defendant Anthony Rosetti. This second raise, effective January 1, 1987, was for an additional \$5200 per year. At the same meeting of the executive board, Anthony Rosetti informed the executive board that he had given you, and the other paid officers of Local 191, a pay raise amounting to \$2600 per year. You participated in approving and accepting these pay increases knowing that they ultimately would increase severance benefits that might be payable to Rosetti, yourself and other indicted

officers in the event of conviction of the charges in the Indictment and any subsequent bar from holding union office. In addition, this scheme of undeserved raises to indicted officials indirectly funded officers' subsequent restitution of embezzled funds.

In further efforts to reward Rosetti and other Local 191 officials for looting the Plan, on or about Saturday, April 4, 1987, you and other members of the executive board of Local 191 conducted "special" meetings of the board and the membership. Your co-defendant Anthony Rosetti was excused from the meetings because he was consulting with his attorney. At the special meeting of the members, another of your co-defendants, Mario Salvatore, gave a report to the members on the scheduled trials of the charges in the Indictment at which trials the charges would be contested. Immediately after this report, a motion was passed providing for severance payments to "any paid officer forced to leave his job other than by loss of an election." In addition, a motion was unanimously passed "reaffirming" a previous motion that entitled "any paid officer with either 9 years service or three consecutive terms" to purchase for one dollar the union automobile assigned to him. You participated in and approved these motions knowing that their purpose was solely to provide Rosetti and other officials of Local 191 who would be convicted of the charges resulting in debarment from union office with additional severance payments.

By a plea agreement filed less than a week later, on April 10, 1987, Rosetti agreed to, and subsequently did, plead guilty to the embezzlement of approximately \$16,800 from the Plan, a violation of 18 U.S.C. § 664. A judgment of conviction was filed on April 24, 1987. Approximately three weeks later and approximately nine days before your own agreement to plead guilty, on or about May 12, 1987, you and other members of the Local 191 executive board caused to be paid to Rosetti approximately \$33,000 in severance benefits and approximately \$11,000 in vacation pay. The so-called severance payment was calculated in accordance with the motion passed at the April 4, 1987 "special" meeting. You, and other members of the executive board did nothing after Rosetti's admission of guilt to embezzling Plan funds to prevent this further improper reward of union assets to him.

On or about June 8, 1987 you and other members of the Local 191 executive board caused Local 191 to sell to Rosetti a 1987 Cadillac Eldorado, purchased by Local 191 only six months before for \$31,669. The car was sold to Rosetti for one dollar. The same day, Rosetti resigned his union office.

None of these payments and financial rewards were for the benefit of the membership of Local 191 or served any legitimate interest of the Local, but instead were solely for the personal benefit of Rosetti, an admitted thief of Plan

funds. These payments and benefits were conferred upon Rosetti despite your knowledge that Rosetti had been charged with labor racketeering and embezzlement of Plan funds, had admitted his guilt to embezzlement charges, and was sentenced by the district court to two years' imprisonment, suspended after three months, three years' probation on the condition that he make restitution to the Plan of \$24,000 and that Rosetti was barred by the district court from holding union office for a period of eight years.

Charge 3

3. Violating Article XIX, § 6(b) of the IBT Constitution, by failing to perform your duties as a union officer:

TO WIT, you have filed and caused to be filed false and misleading Labor Organization Annual Reports (Form LM-2) with the United States Department of Labor. These false Form LM-2s were designed to defraud the Department of Labor and the members of Local 191. The 1987 Form LM-2 and the 1988 Form LM-2, signed by you as Secretary-Treasurer of Local 191, each failed to disclose that full-time paid union officers, including yourself, were paid lump sum executive board allowances of \$2,000 (1987) and \$2500 (1988) per year, in addition to your salary. In addition, the 1988 Form LM-2

falsely reported the amounts of expenses reimbursed to paid officers of Local 191, as follows:

<u>Officer</u>	<u>Expenses Reported</u>	<u>Actual Reimbursed Expenses</u>
Joseph M. Roberto	\$3,126.00	\$20,694.93
Robert Jones	\$4,754.00	\$ 9,461.76
Joseph Bennetta	\$4,673.00	\$27,555.82
Mario Salvatore	\$2,088.00	\$22,238.89

Very truly yours,

Charles M. Carberry

Charles M. Carberry
Investigations Officer
599 Lexington Avenue
New York, New York 10022
(212) 326-3920

Dated: New York, New York
January 9, 1990

cc: Frederick B. Lacey, Esq.
James T. Grady, Esq.
Edward T. Ferguson, Esq.

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